SIKKIM

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GOVERNMENT OF SIKKIM
DEPARTMENT OF PERSONNEL, ADMINISTRATIVE REFORMS, TRANING, PUBLIC GRIEVANCES, CAREER OPTIONS & EMPLOYMENT, SKILL DEV. AND CHIEF MINISTER'S SELF EMPLOYMENT SCHEME
GANGTOK-SIKKIM

No.11 /GEN/DOP **Dated: 1.6.2006**

NOTIFICATON

In exercise of the powers conferred by the proviso to article 309 of the Constitution of India, the Governor is pleased to make the following rules, namely:-

Short title and commencement.

(1) These rules may be called the Sikkim State Subordinate Forest Service (Discipline and Appeal) Rules 2006.

(2) They shall come into force on the date of their publication in the Official Gazette.

(3) These rules shall apply to a forest officer serving the Government or on deputation with the Central Government or any other State Government or on Foreign Service to company corporation, organization or a local authority:

Provided that nothing in these rules shall apply to a forest officer who is serving the Government on deputation from the Central Government or from any other State Government.

Definitions.

2. In these rules, unless the context otherwise requires: —

(a) "appointing authority" in relation to a forest officer means,-

(i) the authority empowered to make appointments to the post which the forest officer for the time being holds; or

(ii) the authority which appointed the forest officer to the said post; or

(iii) the authority empowered to make appointments to the service of which the forest officer is for the time being a member or to the Grade of the Service in which the forest officer is for the timebeing included, as the case may be.

(b) "disciplinary authority" means the authority competent under these rules to impose on a forest officer any of the penalties specified in rule 3;

(c) "Government" means the State Government of Sikkim;

(d) "forest officer" means any person appointed under the Sikkim State Subordinate Forest Service Rules, 1996 or a person so appointed but serving on deputation with the affairs of any other department, corporation, organization or a local authority of the Government or of the Central Government or on any other State Government or is on foreign service to a company, corporation, organization or a local authority;

(e) "Schedule" means the Schedule appended to these rules.

Penalties.

3. Without prejudice to the provision of any law, or any special orders for the time being in force, the following penalties may, for good and sufficient reasons, be imposed on any forest officer, namely:-

(i) punishment drill not exceeding seven days;
(ii) leave without pay for unauthorized absence from duty;
(iii) fine of any amount not exceeding a month's basic pay;
(iv) removal from any office of distinction or special emolument;
(v) deprivation of good conduct pay;
(vi) censure;
(vii) recovering from his pay of the whole or part of any pecuniary loss caused by him to the government by negligence or breach of orders ;
(viii) withholding of increments of pay ;
(ix) reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the forest officer will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;
(x) reduction to a lower time scale of pay, grade, post or service which shall ordinarily be a bar to promotion of the forest officer to the time scale of pay, grade, post or service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or service from which the forest officer was reduced and his seniority and pay on such restoration to that grade, post or service;
(xi) compulsory retirement;
(xii) removal from service which shall not be a disqualification for future employment under the Government;
(xiii) dismissal from service which shall ordinarily be a disqualification for future employment under the Government;

Provided that-

(i) penalty specified in clause (i) may be imposed only to Head Forest Guards and Forest Guards;
(ii) penalty specified in clause (ii) may be imposed on any forest officer,
(iii) the amount of fine imposed on a Head Forest Guard or Forest Guard under clause (iii) shall not exceed 7 days basic pay in the course of a month.

Note:- The amount of fine should be recovered in cash and credited to the Forest Welfare Fund. The recoveries should not appear in the Establishment Pay Bills.

Explanation:- The following shall not amount to a penalty within the meaning of t these rules, namely:-

(i) withholding of increments of a forest officer for his failure to pass any departmental examination in accordance with the rules or orders governing the service to which he belongs or post which he holds or the terms of his appointment;
(ii) stoppage of a forest officer at the efficiency bar in the time scale of pay on the ground of his unfitness to cross the bar;
(iii) non-promotion of a forest officer whether in a substantive or officiating capacity after consideration of his case for promotion to a service, grade or post to which he is eligible;
(iv) reversion of a forest officer officiating in a higher service, grade or post to a lower service, grade or post on the ground that he is considered to be unsuitable for such higher service, grade or post or on any administrative ground unconnected with his conduct;
(v) reversion of a forest officer appointed on probation to any other service, grade or post to his permanent service, grade or post during or at the end of

the period of probation in accordance with the terms of his appointment or the rules and orders governing such probation;

(vi) compulsory retirement of a forest officer in accordance with the provisions relating to his superannuation or retirement;

(vii) termination of the services-

(a) of a forest officer appointed on probation, during or at the end of the period of his probation in accordance with the terms of his appointment or the rules and orders governing such probation; or

(b) of a temporary forest officer appointed on temporary basis under the orders of the appointing authority; or

(c) of a forest officer, employed under an agreement, in accordance with the terms of such agreement.

Disciplinary Authority. 4. (1) The Governor may impose any of the penalties specified in rule 3,subject to limitations indicated therein, on any officer.

(2) Without prejudice to the provisions of sub-rule (1), any of the penalties specified in rule 3, subject to limitations indicated therein, may be imposed on a forest officer by the disciplinary authority specified in the Schedule in this behalf.

Procedure for imposing penalty specified in clause (i) and (ii) of. rule 3.

5. (1) The disciplinary authority may impose on a forest officer of the rank of Head Forest Guard and below the penalty specified in clause (i) and (ii) of rule 3 summarily. The forest officer concerned shall be called by the disciplinary authority to appear before him and when he appears, the particulars of allegations shall be stated to him by the disciplinary authority and he shall be asked to state whether he pleads guilty or has any defence to make.

(2) If the forest officer pleads guilty, the disciplinary authority may pass order imposing on the delinquent the aforesaid penalty. If the forest officer does not plead guilty the disciplinary authority shall record the substance of the evidence and a finding with a brief statement of the reasons thereof, and if the disciplinary authority finds the forest officer guilty, he shall make appropriate order imposing the aforesaid penalty.

Procedure for imposing penalties specified in clauses (iii) to (viii) of rule 3.

6. (1) Subject to the provisions of sub-rule (26) of rule 7, no order imposing on a forest officer any of penalties specified in clauses (iii) to (viii) of rule3 shall be made except after,-

(a) informing the forest officer in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in sub-rules (3) to (22) of rule 7 in every case in which the disciplinary authority is of the opinion that such enquiry is necessary;

(c) taking the representation, if any submitted, by the forest officer under clause (a) and the record of enquiry, if any, held under clause (b) into consideration;

(d) recording a finding of such imputation of misconduct or misbehaviour; and

(2) Notwithstanding anything contained in clause (b) of sub- rule (1), if in a case it is proposed after considering the representation, if any, made by the forest officer under clause (a) of that sub-rule to withhold increment of

pay and such withholding of increments is likely to affect adversely the amount of pension payable to the forest officer or to withhold increments of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period, an inquiry shall be held in the manner laid down in sub-rules (3) to (22) of rule 7, before making any order imposing on the forest officer such penalty.

(3) The record of the proceedings in such case shall include-

(a) a copy of the intimation to the forest officer of the proposal to take action against him;

(b) a copy of the statement of imputation of misconduct or misbehaviour delivered to him;

(c) his representation, if any;

(d) the evidence produced during the inquiry;

(e) the finding on each imputation of misconduct or misbehaviour; and

(f) the order on the case together with the reasons thereof.

Procedure for imposing penalties specified in clauses (ix) to (xiii) of rule 3.

7. (1) No order imposing any of the penalties specified in clauses (ix) to (xiii) of rule 3 shall be made except after an inquiry is held, as far as may be, in the manner provided in this rule.

(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a forest officer, it may itself inquire into, or appoint an authority to inquire into the truth thereof.

Explanation:- Where the disciplinary authority itself holds the inquiry any reference in sub- rules (7) to (20) and in sub-rule (22) to the inquiring authority shall be construed as a reference to the disciplinary authority.

(3) Where it is proposed to hold an inquiry against a forest officer, the disciplinary authority shall draw up or cause to be drawn up-

(i) The substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge;

(ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain-

(a) a statement of all relevant facts including any admission or confession made by the forest officer;

(b) a list of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(4) The disciplinary authority shall deliver or cause to be delivered to the forest officer a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the forest officer to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.

(5) (a) On receipt of the written statement of defence the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary so to do, appoint under sub-rule (2) an Inquiring authority for the purpose, and where all the articles ofcharge have been admitted by the forest officer in his writtenstatement of defence , the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down under sub-rule (25).

(b) If no written statement of defence is submitted by the forest officer, the disciplinary authority may itself inquire into the articles of charge or may if it considers it necessary so to do, appoint under sub-rule (2) an inquiring authority for the purpose.

(c) Where the disciplinary authority itself inquires into any article of charge or appoints an inquiring authority for holding an enquiry into such charge,it may, by an order, appoint a Government officer or a legal practitioner, to be known as the Presenting Officer to present on its behalf the case in support of the article of charge.

(6) The disciplinary authority shall, where it is not the inquiring authority, forward to the inquiring authority,-

(i) a copy of the articles of charge and the statement of the imputations of misconduct or misbehaviour;

(ii) a copy of the written statement of defence , if any, submitted by the forest officer;

(iii) a copy of the statement of witnesses, if any, referred to in sub-rule (3)

(iv) evidence proving the delivery of documents referred to in sub-rule (3) to the forest officer; and

(v) a copy of the order appointing the Presenting Officer.

(7) The forest officer shall appear in person before the inquiring authority on such day and time within ten working days from the date of receipt by him of the articles of charge and the statement of the imputations of misconduct or misbehaviour as the Inquiring authority may, by a notice in writing, specify in this behalf, or within such further time, not exceeding ten days, as the Inquiring authority may allow.

(8) The forest officer may take the assistance of any other forest officer to present the case on his behalf but may not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or the disciplinary authority, having regard to the circumstances of the case, so permits.

(9) If the forest officer who has not admitted any of the articles of charge in his written statement of defence or has not submitted any written statement of defence appears before the inquiring authority, such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the inquiring authority shall record the plea, sign the record and obtain the signature of the forest officer thereon.

(10) The inquiring authority shall return a finding of guilt in respect of those articles of charge to which the forest officer pleads guilty.

(11) The inquiring authority shall, if the forest officer fails to appear within the specified time or refuses or omits to plead, require the Presenting Officer to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not exceeding thirty days after recording an order that the forest officer may, for the purpose of preparing his defence-

(i) inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents specified in the list referred to in sub-rule (3).

(ii) submit a list of witnesses to be examined on his behalf;

Note:- If the forest officer applies in writing for the supply of copies of the state-ment of witnesses mentioned in the list referred to in sub-rule (3) the inquiring authority shall furnish him with such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the disciplinary authority.

(iii) give a notice within ten days of the order or within such further time not exceeding ten days as the inquiring authority may allow, for the discovery or production of any documents which are in the possession of the Government but not mentioned in the list referred to in sub-rule (3).

Note:- The forest officer shall indicate the relevance of the documents required by him to be discovered or produced by the Government.

(12) The inquiring authority shall, on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the documents by such date as may be specified in such requisition.:

Provided that the inquiring authority may, for reasons to be recorded by it in writing, refuse requisition of such of the documents as are, in its opinion, not relevant to the case.

(13) On receipt of the requisition referred to in sub-rule (12), every authority having the custody or possession of the requisitioned documents shall produce the same before the inquiring authority:

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied, for reasons to be recorded by it in writing, that the production of all or any of such documents would be against the public interest or security of the State, it shall inform the inquiring authority accordingly and the inquiring authority shall, on being so informed communicate the information to the forest officer and withdraw the requisition made by it for the production or discovery of such documents.

(14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the disciplinary authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the forest officer. The Presenting Officer shall be entitled to re-examine the witnesses on any point on which they have been cross-examined, but not on any new matter, without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses as it thinks fit.

(15) If it shall appear necessary before the close of the case on behalf of the disciplinary authority, the inquiring authority may in its discretion, allow the Presenting Officer to produce evidence not included in the list given to the forest officer, or may itself call for new evidence or recall and re-examine any witness and in such case,the forest officer shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence exclusive of the day of adjournment and the day to which the inquiry is adjourned. The inquiring authority shall give the forest officer an opportunity of inspecting such documents before they are taken on the record. The inquiring authority may also allow the forest officer to produce new evidence, if it is of the opinion that the production of such evidence is necessary in the interest of justice.

Note: New evidence shall not be permitted or called for or any witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally or the enquiry officer thinks that it is necessary for just decision of the case.

(16) When the case for the disciplinary authority is closed, the forest officer shall be required to state his defence, orally or in writing, as he may prefer. If the defence is made orally, it shall be recorded and the forest officer shall be required to sign the record. In either case, a copy of the statement of defence shall be given to the Presenting Officer, if any, appointed.

(17) The evidence on behalf of the forest officer shall then be produced. The forest officer may examine himself in his own behalf if he so prefers. The witnesses produced by the forest officer shall then be examined and shall be liable to cross-examination, re-examination and examination by the inquiring authority according to the provisions applicable to the witnesses for the disciplinary authority.

(18) The inquiring authority may after the forest officer closes his case, and shall, if the forest officer has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the forest officer to explain any circumstances appearing in the evidence against him.

(19) The inquiring authority may, after the completion of the production of evidence, hear the Presenting Officer, if any, appointed and the forest officer, or permit them to file written briefs of their respective cases, if they so desire.

(20) If the forest officer to whom a copy of the article of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this rule, the inquiring authority may hold the inquiry ex-parte.

(21) Whenever any inquiring authority, after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein, and is succeeded by another inquiring authority which has, and which exercises, such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor, or partly recorded by its predecessor and partly recorded by itself:

Provided that if the succeeding inquiring authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, it may recall, examine, cross-examine and re-examine any such witnesses herein before provided.

(22) (a) After the conclusion of the inquiry, a report shall be prepared and it shall contain,-

(i) the articles of charge and the statement of the imputations of misconduct or misbehaviour;

(ii) the defence of the forest officer in respect of each article of charge;

(iii) an assessment of the evidence in respect of each article of charge;

(iv) the findings on each articles of charge and the reasons thereof.

Explanation :- If in the opinion of the inquiring authority the proceedings of the inquiry establish any article of charge different from the original articles of the charge, it may record its findings on such article of charge:

Provided that the findings on such articles of charge shall not be recorded unless the forest officer has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself on such article of charge.

(b) The inquiring authority, where it is not itself the disciplinary authority,shall forward to the disciplinary authority, the records of inquiry which shall include,-

(i) the report prepared by it under clause (a)

(ii) the written statement of defence, if any, submitted by the forest officer;

(iii) the oral and documentary evidence produced in the course of the inquiry;

(iv) written briefs, if any, filed by the Presenting Officer or the forest officer or both during the course of the inquiry; and

(v) the order, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry.

(23) The disciplinary authority, if it is not itself the inquiring authority may, for reason to be recorded by it in writing, remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provision of this rule.

(24) The disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.

(25) If the disciplinary authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the penalties specified in clause (ix) to clause (xiii) of rule 3 should be imposed on the forest officer, it shall not be necessary to give the forest officer any opportunity of making representation to the penalty proposed to be imposed.

(26) If the disciplinary authority having regard to its finding on all or any of the articles of charge is of the opinion that any of the penalties specified in clause (iv) to clause (ix) of rule 3 should be imposed on the forest officer, it shall, notwithstanding anything contained in rule 6, make an order imposing such penalty.

(27) Orders made by the disciplinary authority shall be communicated to the forest officer who shall also be supplied with a copy of the report of the inquiry, if any, held by the disciplinary authority and a copy of its findings of each articles of charge, or, where the disciplinary authority is not the inquiring authority, a copy of the report of the inquiry authority and a statement of the findings of the disciplinary authority together with brief reasons for its

disagreement, if any, with the findings of the inquiring authority unless they have already been supplied to him.

Common Proceedings. **8.** Where two or more forest officers are concerned in any case, the Governor or any other disciplinary authority may make an order directing that disciplinary action against all of them may be taken in a common proceeding.

Note – if the authority competent to impose the penalties specified in rule 3 is different, an order for taking disciplinary action in a common proceedings may be made by the highest of such authorities with the consent of others.

Special procedure in certain cases. **9.** Notwithstanding anything contained in rules 6,7 and 8,-

(i) where any penalty is to be imposed on forest officer on the ground of conduct which has led to his conviction on a criminal charge, or

(ii) where the disciplinary authority is satisfied, for reasons to be recorded by it in writing, that it is not reasonably practicable to hold an inquiry in the manner provided in these rules, or

(iii) where the Governor is satisfied that in the interest of the security of the State, it is not expedient to hold any inquiry in the manner provided in these rules, the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit.

Suspension. **10.** (1) The appointing authority or a disciplinary or any higher authority may place a forest officer under suspension :-

(a) where a disciplinary proceeding against him is contemplated or is pending; or

(b) where, in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the State; or

(c) where a case against him in respect of any criminal offence is under investigation, inquiry or trial :

Provided that where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

(2) A forest officer shall be deemed to have been placed under suspension by an order of the appointing authority:-

(a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise, for a period of forty-eight hours or more;

(b) with effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment for forty-eight hours or more and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

Explanation:- The period of forty-eight hours referred to in clause (b) shall be computed from the commencement of the imprisonment after the conviction and for this purpose intermittent periods of imprisonment, if any, shall be taken into account.

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a forest officer under suspension is set aside in appeal or on review under these rules and the case is remitted for another inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal,

removal or compulsory retirement and shall remain in force until further orders.

(4) Where penalty of dismissal, removal or compulsory retirement from service imposed upon a forest officer is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority, on a consideration of circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the forest officer shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders:

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.

(5) (a) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(b) Where a forest officer is suspended, whether in connection with any disciplinary proceeding or otherwise, and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by it in writing, direct that the forest officer shall continue to be under suspension until the termination of all or any of such proceedings.

(c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority, which made or is deemed to have made the order.

Appeals. **11.** (1) Notwithstanding anything contained in these rules, no appeal shall lie against :-

(a) an order made by the Governor;

(b) any order of an interlocutory nature or of the nature of step-in-aid for the final disposal of a disciplinary proceedings, other than an order of suspension;

(c) an order passed by an inquiring authority in the course of an inquiry under rule 5.

(d) an order made by the disciplinary authority under rule 5.

(2) Subject to the provisions of sub-rule (1), a forest officer may prefer an appeal against all or any of the following orders, namely :-

(a) an order of suspension made or deemed to have been made under rule 10;

(b) an order imposing any of the penalties specified in rule 3whether made by the disciplinary authority or by any appellate or reviewing authority;

(c) an order enhancing any penalty imposed under rule 3;

(d) an order which –

(i) denies or varies to his disadvantage his pay, allowances, pension or other conditions of service as regulated by rules or by agreement; or

(ii) interprets to his disadvantage the provisions of any such rule or agreement;

(e) an order:-

(i) stopping him at the efficiency bar in the time scale of pay on the ground of his unfitness to cross the bar;

(ii) reverting him while officiating in a higher Service, grade or post to a lower Service, grade or post otherwise than as a penalty;

(iii) reducing or withholding the pension or denying the maximum pension admissible to him under the rules;

(iv) determining the subsistence and other allowances to be paid to him for the period during which he is deemed to be under suspension or for any portion thereof;

(v) determining his pay and allowance –

(a) for the period of suspension; or

(b) for the period from the date of his dismissal, removal or compulsory retirement from service or from the date of his reduction to a lower Service, grade, post, time scale of pay, to the date of his reinstatement or restoration to his Service, grade or post; or

(vi) determining whether or not the period from the date of his suspension or from the date of his dismissal, removal,compulsory retirement or reduction to a lower Service, grade post, time-scale of pay or stage in time scale of pay to the date of his reinstatement or restoration to his Service, grade or post shall be treated as a period spent on duty for any purpose.

Explanation :- In this rule-

(1) the expression 'forest officer' includes a person who has ceased to be in Government service;

(2) the expression 'pension' includes additional pension, gratuity and any other retirement benefit;

(3) a forest officer, including a person who has ceased to be in Government service, may prefer an appeal against all or any of the orders specified in sub-rule (2) to the authority specified in this behalf in the Schedule:

Provided that an appeal against an order in a common proceeding held under rule 8 shall lie to the authority to which the authority functioning as the disciplinary authority for the purpose of that proceeding is immediately subordinate;

(4) No appeal preferred under this rule shall be entertained unless such appeal is preferred within a period of forty-five days from the date on which a copy of the order appealed against is delivered to the appellant:

Provided that the appellate authority may entertain the appeal after the expiry of the said period if is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

(5) (a) In the case of an appeal against an order of suspension the appellate authority shall consider whether in the light of the provisions of rule 10 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.

(b) In the case of an appeal against an order imposing any of the penalties specified in rule 3, the appellate authority shall consider -

(i) whether the procedure laid down in these rules has been complied with, and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;

(ii) whether the findings of the disciplinary authority are warranted by the evidence on the record, and penalty imposed is adequate, inadequate or severe; and pass orders –

(i) confirming, enhancing, reducing or setting aside the penalty; or

(ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case:

Provided that -

(i) if such enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (vii) to (xiii) of rule 3 and an inquiry under rule 7 has not already been held in the case, the appellate authority shall, subject to the provision of rule 9, itself hold inquiry or direct that such inquiry be held in accordance with the provisions of rule 7, and thereafter, giving the appellant reasonable opportunity of making representation against the penalty proposed on the basis of the evidence adduced during the inquiry, make such orders as it may deem fit;

(ii) if the proposed penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (vii) to (xiii) of rule 3 and an inquiry under rule 7 has already been held in the case, the appellate authority shall, after giving the appellant a reasonable opportunity for making representation against the penalty proposed on the basis of the evidence adduced during the inquiry, make such orders as it may deem fit; and

(iii) no order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity of making representation against such enhanced penalty.

(c) In an appeal against any other order specified in sub-rule (2) of rule 11, the appellate authority shall consider all the circumstances of the case and make such orders as it may deem just and equitable.

12. (1) Notwithstanding anything contained in these rules, the Governor may at any time, either on his own motion or otherwise, call for the record of any inquiry and revise any order made under these rules or under the rules repealed by rule 14 from which an appeal is allowed, but from which no appeal has been preferred or from which no appeal is allowed, and may,-

(a) confirm, modify or set aside the order; or
(b) confirm, reduce, enhance, or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or
(c) remit the case to the authority which made the order or to any other authority directing such authority to make such further inquiry as it may consider proper in the circumstances of the cases; or
(d) pass such other orders as it may deem fit:

Provided that no order imposing or enhancing any penalty shall be made by any revising authority unless the forest officer concerned has been given a reasonable opportunity for making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clauses (ix) to (xiii) of rule 3 or to enhance the penalty imposed by the order sought to be reviewed to any of the penalties specified in those clauses, no such penalty shall be imposed except after an inquiry in the manner laid down in rule 7 and after giving a reasonable opportunity to the forest officer concerned or showing causes against the penalty proposed on the evidence adduced during the inquiry.

(2) An application for revision shall be dealt with in the manner as if it were an appeal under these rules.

Review

13. The Governor may at any time, either on his own motion or otherwise, review any order passed under these rules, when any new material or evidence which could not be produced or was not available at the time of passing the order under review and which has the effect of enhancing the nature of the case, has come, or has been brought to his notice:

Provided that no order imposing or enhancing any penalty shall be made by the Governor unless the forest officer concerned has been given a reasonable opportunity of making a representation against the penalty proposed or where it is proposed to impose any of the penalties specified in clauses (vii) to (xiii) of rule 3

or to enhance the penalty imposed by the order sought to be reviewed to any of the penalties specified in clauses (vii)to (xiii) and if an inquiry under rule 7 has not already been held in the case, no such penalty shall be imposed except after inquiring in the manner laid down in rule 7, subject to the provisions of rule 9.

Non-applicability of Sikkim Government Servant's (Discipline & Appeal) Rules, 1985 and saving thereof.

14. (1) On and from the date of commencement of these rules, the Sikkim Government Servant's (Discipline and Appeal) Rules, 1985 shall cease to apply to the forest officer:

Provided that the proceedings initiated under the Sikkim Government Servant's (Discipline and Appeal) Rules, 1985 and pending at the commencement of these rules shall be continued and disposed of in accordance with the provisions of these rules as if such proceedings were under these rules.

(2) Nothing in these rules shall be construed as depriving any forest officer of any right of appeal which had accrued to him under the rules, notifications or orders in force before the commencement of these rules.

(3) An appeal pending at the commencement of these rules against an order made before such commencement shall be considered and order thereon shall be made, in accordance with the provisions of these rules as if such order was made and the appeal was preferred under these rules.

(4) As from the commencement of these rules any appeal or application for review against any orders made before such commencement shall be preferred or made under these rules, as if such orders were made under these rules;

Provided that nothing in these rules shall be construed as reducing any period of limitation for any appeal or review provided by any rule in force before the commencement of these rules.

Removal of doubts

15. If any doubt arises as to the interpretation of any of the provisions of these rules, it shall be referred to the Government in the Department of Personnel, Administrative Reforms and Training, whose decision thereon shall be final.

BY ORDER AND IN THE NAME OF THE GOVERNOR.

C. L. SHARMA,
SPECIAL SECRETARY TO THE GOVERNMENT
DEPTT. OF PERSONNEL, ADM. REFORMS, TRAINING, PUBLIC GRIEVANCES, CAREER OPTIONS & EMPLOYMENT SKILL DEV. AND CHIEF MINISTER'S SELF EMPLOYMENT SCHEME

SCHEDULE

Sl. No	Descript on of Post	Appointing Authority	Disciplinary Authority & Penalties which he is empowered to impose			Appellate Authority
1	Range Officer	Governor	(i)	Governor	All	Nil
			(ii)	Principal Chief Conservator of Forests/Additional Principal Chief Conservator of Forests/ Chief Conservator of Forests	rule 3(ii) to (viii)	Governor
			(iii)	Conservator of Forests/Additional Directors /Joint Directors/ Deputy Conservator of Forests/ Divisional Forest Officers	rule 3 (ii) and (vi)	Principal Chief Conservator of Forests
2.	Block Officer	Governor	(i)	Governor	All	Nil
			(ii)	Principal Chief Conservator of Forests/Additional Principal Chief Conservator of Forests/ Chief Conservator of Forests	rule 3(ii) to (viii)	Chief Secretary
			(iii)	Conservator of Forests/Additional Director/Joint Director/ Deputy. Conservator of Forests/Divisional Forest Officer	rule 3 (ii) and (vii)	Principal Chief Conservator of Forests

3.	Head Forest Guard/Forest Guard	Governor	(i)	Governor	All	Nil
			(ii)	Principal Chief Conservator of Forests/ Additional Principal Chief Conservator of Forests/ Chief Conservator of Forests	rule 3 (ii) to (viii)	Chief Secretary
			(iii)	Conservator of Forests/Additional Director/ Joint Director/ Deputy Conservator of Forests/ Divisional Forest Officer	rule 3(ii) to (vii)	Principal Chief Conservator of Forests